

mailed 4/9/94

Date:

Case No.: 92-CLA-89

In the Matter of:

MARIA ECHAVESTE, ADMINISTRATOR
WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR
Plaintiff

v.

LOS INDIOS, INC., Doing Business as
ALAMOS VERDES RESTAURANTE, a Colorado
Corporation,
Respondent

DECISION AND ORDER APPROVING CONSENT FINDINGS

The parties, pursuant to 29 C.F.R. § 18.9, (made applicable to these proceedings by virtue of 29 C.F.R. § 580.7(a)), hereby agree to the following consent findings:

1. By notice dated July 19, 1990, pursuant to Section 16(e) of the Fair Labor Standards Act, as amended (29 U.S.C. § 216(e)) (hereinafter "the Act"), and in accordance with 29 C.F.R. Part 579, civil penalties in the amount of \$32,020.00 were assessed by Plaintiff against Respondent as a result of the employment of several minors in violation of the child labor provisions of Section 12 of the Act (29 U.S.C. § 212) and the regulations issued thereunder (29 C.F.R. Part 570).

2. By letter dated July 31, 1990, Respondent filed a timely exception to the assessed civil money penalties pursuant to 29 U.S.C. § 216(e) and 29 C.F.R. Part 580.6.

3. Subsequent to the filing of the exception, the Regional Solicitor, by Order of Reference, referred this case to the Chief Administrative Law Judge, pursuant to 29 C.F.R. 580.10.

4. Plaintiff alleges and Respondent admits that at all times pertinent hereto Respondent has been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Sections 3(r) and 3(s) of the Act.

5. Respondent certifies that it is presently in compliance with the provisions of Section 12 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 212), and the regulations set forth at 29 C.F.R. Parts 570 and 579 and, further states, that it will continue in compliance herewith.

6. Upon reconsideration of the amount of penalties assessed for employment of many minors in this case, Plaintiff hereby modifies the letter assessing the penalties of \$32,020.00 by reducing the assessment of civil money penalties to \$14,500.00.

7. Respondent hereby withdraws any and all exceptions to the assessment of civil money penalties, as amended by these Consent Findings, and agrees that said amended penalties shall be the final determination of the Secretary.

8. Respondent agrees to pay the reduced penalties in the following manner. On the first day of each month, beginning on April 1, 1994, and ending on September 1, 1996, Respondent will remit a check in the amount of \$500.00 made payable to the U.S. Dept. of Labor, and mail it to the U.S. Dept. of Labor, Wage-Hour Division, 1801 California, Suite 930, Denver, CO 80202-2614.

Respondent understands that if an installment payment is later (received after the tenth day of the month) the total amount remaining due will become payable immediately.

9. Pursuant to 29 C.F.R. § 8.9(b)(2), the entire record upon which these Consent Findings and Order are based consists solely of the letter assessing the penalties, as modified herein, the Order of Reference, and these Consent Findings.

10. All further procedural steps before the Administrative Law Judge and any rights to challenge or contest the validity of these Consent Findings or any Order issued pursuant thereto are hereby waived.

11. Each party hereby agrees to bear its own fees, costs, and other expenses incurred by such party in connection with any stage of this proceeding.

12. It is further agreed that the Order in this case shall have the same force and effect as an order made after full hearing.

This Administrative Law Judge, having reviewed the Consent Findings, concludes that this settlement is in the best interests

of all of the parties and it is therefore **ORDERED** that the settlement agreement shall be, and the same hereby is **APPROVED** pursuant to the provisions of 29 CFR § 6.32.

DAVID W. DI NARDI
Administrative Law Judge

Dated:

Boston, Massachusetts

DWD:las

